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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,597	01/15/2004	Kazutaka Nishio	2004_0036A	4919
513 7590 04/14/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER SHIBRU, HELEN				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
04/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/757,597

**Applicant(s)**

NISHIO ET AL.

**Examiner**

HELEN SHIBRU

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 8-14, 17, and 19 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-7, 15, 16 and 18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date 03/31/2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Claims 8-14, 17, and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/24/2008.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 15-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's related art in view of Tanaka (US PG PUB 2006/0008175).

Note to the Applicant: The USPTO considers the Applicant's "or" and "one of" languages to be anticipated by any reference containing one of the subsequent corresponding elements.

Regarding claim 1, Applicant's related art discloses an image reproducing device for reproducing image data and outputting the reproduced image data to a display device, the image reproducing device comprising: an input unit operable to obtain the image data, and image information including position information relating to either or both of a shooting position from which the image is shot and an object position included in the image data (see paragraph 3 in page 1).

Claim 1 differs from Applicant's related art in that the claim further requires a map display unit operable to display a map on the display device; and a position display unit operable to display a symbol indicating the image data on a position corresponding to either the shooting position or the object position on the map, based on the position information included in the image information.

In the same field of endeavor Tanaka discloses a map display unit operable to display a map on the display device (see paragraph 0097 and figures 2-4 and 24); and a position display unit operable to display a symbol indicating the image data on a position corresponding to either the shooting position or the object position on the map, based on the position information included in the image information (see abstract, paragraphs 0087 and 0119, the symbol indicates an installed position of a camera). Therefore in light of the teaching in Tanaka it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Applicant's related art by providing a map and position display unit operable to display symbol in order to enter camera layout information.

Regarding claim 2, Tanaka discloses an image information analysis unit operable to analyze the obtained image information (see paragraphs 0107 and 0150); and a symbol attribute change unit operable to change at least one attribute of the symbol based on the analysis result obtained by the image information analysis unit (see paragraph 0108); wherein the position display unit displays the symbol according to at least one attribute changed by the symbol attribute change unit (see paragraph 0108).

Regarding claim 3, Tanaka discloses the image information analysis unit analyzes the position information included in the obtained image information and counts one of the following:

Art Unit: 2621

the number of image shot from the same position; and the number of image including an object in the same position (see paragraphs 0075 and 0164), and the symbol attribute change unit changes at least one attribute of the symbol based on the counting result obtained by the image information analysis unit (see paragraphs 0120 and 0127).

Regarding claim 15, the limitation of claim 15 can be found in claim 1. Therefore claim 15 is analyzed and rejected for the same reasons as discussed in claim 1. It is noted that Tanaka discloses an image selection step of receiving a selection of the symbol displayed in the position display step (see figures 6, 10, and 11); and an image reproduction step of reproducing image data corresponding to the selected symbol (see claims 1-11).

Claim 16 is rejected for the same reasons as discussed in claim 2 above.

Claim 18 is rejected for the same reason as discussed in claim 15 above.

4. Claims 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's related are in view of Tanaka and further in view of Yasunobu (JP -B-3480738).

Regarding claim 4, claim 4 differs from Applicant's related art and Tanaka in that the claim further requires the image information includes information on a length of time for shooting the image data, the image information analysis unit analyzes the length of shooting time for each image data, and the symbol attribute change unit changes the symbol based on the length of shooting time.

In the same field of endeavor Yasunobu discloses the image information includes information on a length of time for shooting the image data (see claim 2, paragraphs 0010-0012, relative time amount), the image information analysis unit analyzes the length of shooting time for each image data (see claims 1 and 2), and the symbol attribute change unit changes the

Art Unit: 2621

symbol based on the length of shooting time (see claim 1, attribute information is renewed). Therefore in light of the teaching in Yasunobu it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the proposed combination by including information on a length of time and changing unit in order to distinguish the updated information.

Regarding claim 6, Yasunobu discloses the symbol attribute change unit changes at least one of the followings as an attribute of the symbol: size, color, brightness and form (see paragraphs 0010, 0022, 0034).

Regarding claim 7, Yasunobu discloses a display method selection unit operable to receive standard settings for changing at least one of the attributes of the symbol, wherein the symbol attribute change unit changes at least one of the attributes of the symbol according to the standard settings (see claim 2).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's related are in view of Tanaka and further in view of Yasunobu (JP -B-3480738) and Wuzer (US PG PUB 2002/0090196).

Regarding claim 5, although Yasunobu fails to disclose a reproduction information retention unit operable to add up each measurement result obtained by the reproduction information measurement unit and retain the obtained addition result, Yasunobu discloses a reproduction information measurement unit operable to measure at least one of the following: the number of times reproducing the image data and a length of time taken for reproducing the image data (see paragraph 0010 and claim 2) and the symbol attribute change unit changes at least one attribute of the symbol based on the addition result retained by the reproduction

information retention unit (see claim 2 where it discloses changing the icon according to attribute information).

In the same field of endeavor Wuzer discloses a reproduction information retention unit operable to add up each measurement result obtained by the reproduction information measurement unit and retain the obtained addition result (0012, and 0033 where it teaches a frequency processing means designed for processing the frequency of a change in operating state of the modular unit and for receiving the observation time interval information). Therefore in light of the teaching in Wuzer it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above proposed combinations by providing a frequency measurement in order to generate an item of observation time.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 18 is rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. Warmerdam, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer

Art Unit: 2621

without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/

Examiner, Art Unit 2621

April 7, 2008

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621